Secrt. II-27—45,004—21-10-27.

Law (St)

(192 8) Department.

Ms. SERIES.

G.O. No. 1384

DATED 16-4-28

[Despatch Abstract.]

MOTOR VEHICLES ACT – Driver's licence – K. Raman Manadiyar – South Kanara District – Cancellation.

C.F. 29—1,296 24-12-19.

L 9421A
31.3.28

Law (General) DEPARTMENT.

Received ..... 19 . Registered 19

Subject.

Motor Vehicles - driving licence of K. Raman Manadiyar - permanent cancellation - requested.

AS 31/3

ENCLOSURES.
No. .....
.....
Spare copies .....

Cl - No. 2886-28.

Station Mangalore, Dated the 28th March, 1928.

From (Name) C. G. Herbert, Esquire, I.C.S.,
(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras,
Law (General) Department,
Madras.

Sir,

I request that Government may be pleased under Section 18 (1) of the Indian Motor Vehicles Act (VIII of 1914) to declare K. Raman Manadiyar residing in Mangalore Town permanently disqualified from holding a licence to drive a motor car.

2. This person was convicted on 13-2-1928 by the Sub-Magistrate Mangalore Town in C.C. 1272 of 27 of an offence under Section 338 I.P.C. and of breach of rule 27 (c) of the Motor Vehicles rules. The Sub-Magistrate also cancelled his driving licence. A copy of the judgment is enclosed. The conviction was upheld in appeal by the

Ht 7-11 enf

Sub-Divisional Magistrate, Mangalore in his judgment dated 16-3-28 in C.A. 6 of 1928 on his file, a copy of which is also enclosed.

3. The driver was found guilty, both by the Sub-Magistrate and by the appellate court of driving his car rashly, and of grave negligence in failing to render any aid to Mr. J.M.Watt whom he knocked down and who sustained very serious injuries. I consider that it entirely opposed to public interests to allow such a man any chance of driving a Motor Vehicle again. I therefore request that the Sub-Magistrate's order cancelling his driving licence (which will under the proviso to Section 18 (2) of the Indian Motor Vehicles Act, be in force only till 13-2-29) may be made permanent under Section 18 (1) of the Act.

Your obedient servant,

For Dt. Magistrate.

U.S. 29-3-29.

29/3

In the court of the Sub-Divisional I Class Magistrate, Mangalore Division.

Friday, the Sixteenth day of March 1928.

Present:- Marian S. Pais, Esquire.

Judgment in Criminal Appeal No.6 of 1928.

From what Court the appeal is preferred.	...	Stationary II Class Magistrate, Mangalore Taluk.
Number of the case in that Court.	...	Cal. Case No. 1272/27.
Number of the Appeal.	...	C.A.No. 6/1928.
Name and description of the Appellant.	...	K.Rama Manadiyar, son of Krishna Manadiyar, Motor driver, Mangalore Town.
The sentence and law under which it was imposed in the lower Court.		To undergo rigorous imprisonment for 6 months and to pay a fine of Rs 50/- or in default to suffer six weeks further rigorous imprisonment under section 338 I.P.C. and rule 27 (c) of the Motor Vehicles Rules read with Section 16 of the Motor Vehicles Act 1914.
Whether confirmed, modified or reversed and if modified the modification.		Conviction confirmed but the sentence reduced to the period of imprisonment the appellant has undergone and enhancing the fine to Rs (100/-) One hundred, in the aggregate, in default to undergo rigorous imprisonment for two months.

Date of, or on which					
Presentation.	Filing.	Notice issued by Court to appear.	Appellant ordered to appear.	Hearing.	Order.
13-2-1928.	13-2-28	14-2-1928 & 5-3-1928	1-3-1928 & 15-3-1928	15-3-28.	16-3-28.

This appeal coming on for hearing before me; upon perusing the petition of appeal and the record of the evidence and proceedings and upon duly considering the same after hearing the Appellant's Vakil Mr. P.Sanjiva and the Prosecuting Inspector of Police, contra, I do adjudge and pass the following

Judgment

The appellant has been convicted by the Stationary Sub-Magistrate

Mangalore under Section 338 I.P.C. and rule 27 (c) of the Motor Vehicles Rules read with Section 16 of the Motor Vehicles Act and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs 50/- or in default to suffer six weeks further rigorous imprisonment.

2. The appellant was the driver of the car belonging to D.W.4. The car was lent to D.W.5 who went in it to Bolar to invite some persons for a marriage. On the way back the car and a motor-cycle on which P.W.1 was riding collided at the junction of the Mangaladevi temple road with the Jeppuu Bunder road, with the result that P.W.1 was thrown off his cycle into a ditch, received severe injuries and had one of his legs broken.

3. The collision, its time and place and also the fact that P.W.1 received severe injuries, are clearly proved and also admitted by the defence. The only points contested are whether there had been negligent omission on the part of the appellant as held by the lower court and whether he failed to render the necessary help to the injured person.

4. It is admitted that P.W.1 was driving his cycle on a main road leading from Jeppuu to Bunder. He was going from east to west. The appellant's car was entering this main road from a branch or side road and he was driving south to north. From the defence evidence itself it is evident that P.W.1's cycle was 5 or 6 feet to the east when the appellant's car just emerged from the side road. Rule 26 (c) of the Motor Vehicles Rules lays down that "a motor vehicle entering a main road from a branch or side road, shall enter the main road slowly, giving precedence to the vehicles approaching from his right hand side etc". The road is more than 20 feet broad. According to D.W.5 the car proceeded about 15 feet on the main road when the collision took place by the cycle coming in contact with the left front wheel of the car. If the appellant had slowed down the speed of the car while entering the main road and given precedence to the vehicle approaching from his right as he was legally bound to do, he should have been able to stop his car before he travelled 15 feet on the main

road. I agree with the lower court that there has been negligent omission on the part of the appellant.

5. As regards rendering help to the injured person it is true that some of the prosecution witnesses say that P.W.1 was in a temper. It is natural that a man thrown off his cycle into a ditch and who sustained severe injuries including the breaking of his leg should be in a bad temper. It is clear however from the evidence on record that the appellant did not even go near the injured person but merely examined his own car and went away. I find agreeing with the lower court that the appellant failed to discharge his duty.

6. It is urged that the sentence is very severe. The appellant is stated to have always been a careful driver and that he has not had even a warning. This is probably true at any rate this is his first offence and I consider six months' imprisonment in addition to fine is too severe a sentence. I reduce the sentence to the period of imprisonment he has actually undergone and enhance the fine to one hundred rupees in the aggregate. If the fine is not paid he will undergo rigorous imprisonment for two months.

Sd/- Marian S.Pais,
16-3-28.
Sub-Divisional Magistrate.

29/3

Calendar and Judgment.
(For use in cases where there is only one accused person)

District of South Kanara.

Calendar of cases tried by the Stationary II Class Magistrate of Mangalore.

Offence.	Date of. Report or complaint.	Appearance of accused.	Release on bail.	Commencement of trial.	Close of trial.	Sentence or order.	Explanation of delay & Remarks.
4-11-27 Bolar.	4-11-27 Charge sheet received on 21-11-27.	22-11-27 * Released on bail the same day.	*	17-1-28	11-2-28	13-2-28 (12th was a Sunday)	As P.W.1 was not able to sit properly the case could not be taken up earlier. Proceddings sent to District Superintendent of Police. Licence cancelled is retained in the records.

Judgment in Calendar Case No. 1272 of 1927 on the file of the Stationary II Class Magistrate of Mangalore.

Complainant. Rex : Mangalore Town F.I.No.141/27 Prosecution conducted by Prosecuting Inspector of Police Mr. P. Rama Krishna Rao.

Name of accused.	Age.	Father's name.
K. Raman Manadiyar.	25	Krishna Manadiyar,

Caste or Religion.	Calling	Residence	Taluk
Manadiyar	Motor driver.	Mangalore Town.	Mangalore.

Defended by Vakils Messrs P. Sequeira and Michael Alvares.

Offence:- Causing grievous hurt by act endangering life or personal safety of others; Sec:338 I.P.C and failure to render necessary help to the person injured by the accident ; rule 27(C) of the Motor vehicles Rules read with Sec:16 of the Motor Vehicles Act, 1914

Finding: Guilty

Sentence: TO suffer 6 months rigorous imprisonment and to pay a fine of Rs50 or in default to suffer six weeks further R. I.

Sd/- Ananda Rao
Stry. Second Class Magte.

Judgment.

On 4th November 1927, Mr.J.M.Watt (P.W.1) Assistant Manager, Messrs.Pierce Leslie and Company,Limited was driving his motor cycle between 3 and 3.30 P.M from his bungalow at Jeppu to his office in Bunder. On approaching the opening of the road leading to the Mangaladevi Temple he sounded his horn and again sounded it before approaching the road to his left which is almost opposite the former road; just before he drew opposite the road on his left, a car driven by the accused emerged from that road without sound or warning and at a speed which is estimated at 20 miles an hour. The car swung almost completely across the road as if intending to enter the road leading to the Mangaladevi temple. P.W.1 endeavoured to avoid the car by swinging to his right, hoping the car would be able to pull up and because the back of the car was not sufficiently clear off the road from which it had emerged. The car, however, was travelling too fast to pull up and appeared just in front of P.W.1 so quickly and so close that it was impossible for P.W.1 to get past it and hit its left front wheel throwing P.W.1 and his cycle into the ditch. On sitting up, P.W.1 found that his left leg was badly broken and despite his calls for assistance in which he informed the accused and the occupants of the car, of the nature of his injury, they made no attempt to help him. The accused got out of the car and started only to examine the mudguard and the tyre the latter having been knocked off. The occupants of the car remained looking straight in front of them. P.Ws.3,4 and 5 and some others joined together, gave P.W.1 some soda water, engaged a jatka, assisted P.W.1 into it and took him towards his bungalow. Shortly afterwards the District Medical Officer met him, took him to the Mangalore Headquarters Hospital in his car and examined the injuries under chloroform with the help of P.W.2, the Assistant Surgeon attached to the Hospital.

2:- Exhibit A is the wound certificate produced in this case. It

accounts for 9 injuries - Two contused wounds, 3 abrasions, one superficial contusion and three lacerated wounds, one of which was a compound fracture of the middle third of left tibia; about 3 inches of tibia broken into pieces obliquely. P.W.1 was an impatient in the hospital from 4 -11-27 to 1-2-1928 i.e. the date on which he was further cross examined and even then he was not in a position to move about. P.W.2 is not able to say how much more time P.W.1 will require to walk about freely but he opines that one of the injuries might leave a permanent defect in the left leg of P.W.1.

3. P.Ws 3,4 and 5 are persons living very near the scene of the occurrence. They all agree in saying that the accused drove his car from the side road into the main road, very fast, without sounding the horn, collided with the motor cycle knocked P.W.1 down and neither the accused nor the occupants of the car gave any assistance to P.W.1. It was P.W.3 that arranged to send P.W.1 to his bungalow in a jatka.

4. The accused denied having committed any offence and pleaded not guilty to a charge under Section 338 I.P.C and Rule 27(c) of the Motor Vehicle Rules. After the cross-examination of the P.Ws was all over, he filed a written statement. This shows that he did not drive his car negligently or rashly, that the accident was entirely due to the tremendous speed with which P.W.1 was driving the cycle which made it impossible for P.W.1 to control and consequently, it was P.W.1 that dashed into the left front wheel of his car, knocking the tyre with the rim by breaking the bolts, that he alighted from the car and was approaching P.W.1 but the latter who was in a violent temper, not only cursed him and threatened him but peremptorily ordered another person, who attempted to lift him, not to touch him and that, when a jatka happened to arrive, he (accused) stopped it and requested some persons present there to render necessary help to and take P.W.1 from there.

5. Of the five witnesses examined by the defence, D.Ws 1 and 4

simply prove that the car driven by the accused on the day in question belongs to D.W.4, that it was in good order shortly before and shortly after the accident and that the accused is an excellent and careful driver and had not even a warning from the Police before. The evidence of D.W.3 and 4 further shows that the car was thoroughly overhauled a month or two prior to the accident.

6. D.Ws.2 and 5 are said to be the occupants of the car at the time of the collision. They are both related to each other. They engaged the car, without any rent, to go to Bolar to invite somebody for a marriage in D.W.5's house at Coondapoor. After the invitation was over, they say, they got into the car at a place 25 fathoms south of the junction of the road where the accident took place, and the accused drove the car slowly sounding the horn once when it started and twice or thrice after it started and before the collision. Seeing a motor cycle going from east to west on the main road the accused stopped the car at once applying the ~~breaks~~ brakes. The cycle however dashed against the car and the rider fell into a ditch. D.Ws 2 and 5 as well as the accused went near the injured person who, however, abused them and would not allow them to touch him but said "go and inform my bungalow". A jatka came that way and the accused asked the jatka driver to take the gentleman to his bungalow. D.W.5 goes a step further and says that the injured gentleman even gave a blow to one who attempted to lift him and therefore he (D.W.5) or the accused was afraid to go near. D.W.2 admits that he did not get down the car after the collision and go near the injured person but D.W.5 says to the contrary. It is therefore likely that neither of them got down the car, as deposed to by the P.Ws; D.Ws.2 and 5 are under obligation to D.W.4 for lending them the use of his car and the accused is a driver of that car.

7. The collision as well as the time and place of the collision are thus admitted. The impact, took place just in the middle of the main road. It is also admitted that P.W.1 was driving his motor cycle from east to west along the road leading from Jeppu to Bunder

while the accused drove his car from south to north crossing the main road. If,as alleged by the defence,the accused drove his car slowly,sounding his horn and P.W.1 dashed himself against it,P.W.1 should have been pushed backwards to the east and to the right of the car but it is clear,from the prosecution evidence supported by the written statement of the accused and the evidence of D.Ws2 and5, that it is the left front wheel of the car that was effected by the impact and that P.W.1 was thrown into the ditch to the left and to the northwest of the car,about 18 feet away. There is therefore no doubt that it is the accused that is responsible for the impact and not P.W.1 and that he drove his car rashly.

8:- Rule 26 (c) of the Motor Vehicle Rules lays down that " a motor vehicle entering a main road from a branch or side road,shall enter the main road slowly,giving precedence to vehicles approaching from his right hand side ..... and shall sound horn ". The accused emerged from a side road in the south and was trying to get into another side road on the north after crossing the main road. D.W.5 himself admits that P.W.1's cycle was 5 or 6 feet to the east when the accused's car emerged from the side road into the main road and that after the car proceeded about 15 feet on the main road the collision took place and the car stopped. If the accused had used the least circumspection and driven the car slowly,as required by the Rules, he should have been able to stop the car or atleast slacken the speed so as to give precedence to P.W.1's motor cycle coming from his right and then proceeded north. He took no precautions of any kind but caused grievous hurt to P.W.1 by such negligent omission,that is, omission (1) to sound his horn (2) to drive his car slowly and ~~x~~ (3) to give precedence to P.W.1's cycle before proceeding northwards on the main road and disabled P.W.1,probably, for life.

9. Rule 27(c) of the Motor Vehicle Rules also throws on the accused the duty of giving all possible immediate assistance to any person injured by any accident and if necessary,helping

him in conveying him to a hospital. P.Ws 1,3,4 and 5 who are not shown to have any motive to forswear against the accused, declare that the accused went on his way, after the collision paying no attention to P.W.1 who had admittedly very serious injuries one of which is likely to leave a permanent defect on his left leg and I have no doubt that the accused failed to discharge his duty.

10. For the reasons stated above I find the accused guilty of the offence under Section 338 I.P.C and of breach of Rule 27(c) of the Motor Vehicle Rules punishable under Section 16 of the Motor Vehicles Act VIII of 1914, and convict him of those offences. It is clear from the evidence that the branch and the main road at the place of collision are over 20 feet in width and were clear of all traffic. There was thus ample space for the accused to have passed P.W.1. Without taking any care the accused drove the car and caused grievous hurt. In a similar case where the injury was not so serious the driver got three months rigorous imprisonment and a fine of Rs 20 with the remark that " where a person by his rash and negligent driving of a motor car knocks a passenger over with impunity and leaves him where he was without stopping to see the injury caused, he must be dealt with severely" (28 Cr.L.J.1927 page 894). In this case P.W.1 has been injured and that too very badly. I consider it a more serious offence. I accordingly sentence the accused to undergo six months rigorous imprisonment and to pay a fine of Rs 50 or in default to suffer six weeks further rigorous imprisonment. His driving license will also be cancelled under Section 18(2) of the Motor Vehicles Act.

(sd) P. Ananda Rao,

Mangalore, 13 -2- 1928. Stationery Sub Magistrate.

The accused is committed to Mangalore Sub Jail.

124

Appendix

Witnesses examined for

PROSECUTION	DEFENCE
1. Mr.J.M.Watt (Assistant Manager Pierce Leslie and Co.,Ltd.,)	1. Mr.V.S.Albuquerque
2. Mr.B.R.Shetty,(Asstt.D.M.O).	2. Ignatius Coelho
3. Yonathan Airan	3. Immanuel Suvarna
4. Duggamma (female)	4. Mr. J.P.Sequeira (Official Receiver)
5. Ramappa	5. Mr.K.R.Louis
6. Mr. K.Padmappa (S.H.O.Town)	

Exhibits filed for

Prosecution	Defence
A. 11 -11- 1927 Wound certificate granted to P.W.1 by P.W.2.	I. 1 -6- '27. C. Permit
B. 1 - 2- 1928. Plan of the locality.	

Material Objects.

N i l.

(sd) P. Ananda Rao,

Mangalore, 13-2-1928. Stationery II Class Magistrate.

True Copy

Mangalore, 13 -2- 1928. Stationery II Class Magistrate

13/2/28

Land Cust

Mt-2CF C No 1421 A From the D.M. S. Kanara

C.Y. - No. 2886-28 dt 28-3-28

Subject Motor Vehicles —
drivers license - cancellation
K. Raman Manadiyar.

Sir,

Please see the D.M's letter on pp 1-2CF In the circumstances explained therein, the D.M recommends that the drivers license held by one K. Raman Manadiyar may be permanently cancelled.

2/ Attention is invited to copies of Judgments of the Sub Magistrate and of the Sub Divl. Magistrate in appeal on pp 2-11 and pp 3-5 CF respecting for orders whether the license

A | of the driver in question may be cancelled permanently.

Mr Watt is personally known to me and I refrain from making any Remarks. Cs 3.4.28

Submitted 11th 028 — Secretary Shall speak to me about this 6/4/28 A Secretary 028 6/4/28

42

Ans to Instruction - Dept 58 - Sedition

18.

Under Sec 18(1) Govt Can suspend a license or permanently Cancel it. Under proviso to 18(2) the latter powers can operate for a year. Govt can enhance the penalty.

C 2

DSR
14-4-28

I agree that the dealers license Cancelled permanently.

14/4/28

Sir:

Draft sub.

SRD 16428 GS. 16.4.28

Regtt II-5 (a)—38,004—26-10-27. (6)

Law (Genl) DEPARTMENT.

	Date.	Initials.
When received for Fair-copying.		
When copied ..		
When examined ..		
When signed ..		
When despatched ..		

Motor Vehicles Act—
Drivers licence – K. Raman Manadiyar – S. Kanara & Canallatra.

READ AGAIN G.O. No. ....., dated ..... 192 .

" " " " ..... " ..... 192 .

READ ALSO:—

C. No. 1421A From the D.M. S. Kanara. C. No. 2886-28 dated 28.3. 192 8.

" " " " ..... " ..... 192 .

" " " " ..... " ..... 192 .

ORDER.

No. 1884, dated 16/4/1928.

Under sub-section (1) of section 18 of the Indian Motor Vehicles Act. 1914 (VIII of 1914). the Govt. in Council hereby declares that K. Raman Manadiyar, a licensed motor driver of Mangalore in the S. Kanara dt., is disqualified permanently from obtaining a licence under the said Act, and orders that the licence already held by him be cancelled.

Govt. Sec'y 16/4/28 16.4.28

To
The D.M. S. Kanara
" Comm. of Police
" I.G. of Police
" A.G. & A.M.S.
S.G.P. for publication in the Gazette.